

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

MICHAEL LEVON THOMAS

PLAINTIFF

V.

CIVIL ACTION NO. 4:07cv92-HTW-LRA

SYMTECH CORPORATION

DEFENDANT

ORDER OF DISMISSAL

On July 26, 2007, plaintiff, Michael Levon Thomas ("Thomas"), filed this employment discrimination dispute in this court. Later, on October 3, 2007, plaintiff filed a Motion to Proceed *In Forma Pauperis*. Thereafter, on October 26, 2007, after reviewing plaintiff's sworn financial affidavit, the magistrate judge issued a Report and Recommendation denying plaintiff's motion. The magistrate judge determined that plaintiff had sufficient income and assets to pay the required filing fees necessary to pursue his action. Plaintiff was ordered to pay the filing fees within thirty (30) days of the date of that order. Plaintiff had until November 5, 2007, to object to the magistrate judge's decision. Plaintiff submitted no objection.

On June 18, 2008, this court adopted the magistrate judge's Report and Recommendations. As of July 10, 2008, plaintiff still had not paid the required filing fees. Accordingly, this court issued a show cause order directing plaintiff to explain why he had failed to pay the required filing fees pursuant to the magistrate judge's earlier order.

On August 15, 2008, plaintiff responded to the court's show cause order and asked the court to allow him to pay the filing fee in fifty dollar (\$50.00) increments until the debt was satisfied. On March 30, 2009, the court denied plaintiff's request. The court directed plaintiff to pay the filing fee no later than ten (10) days from the date of the court's March 30th order. The court warned the plaintiff that unless this filing fee was paid, this court

would dismiss the plaintiff's lawsuit. Plaintiff did not comply with the court's order.

On April 6, 2009, plaintiff asked this court not to dismiss his case. He asserts that he has a legitimate lawsuit. Plaintiff adds that, at the time of the magistrate judge's ruling, he was, and continues to be, unemployed and as such does not possess the money to hire an attorney nor pay the required fees. According to plaintiff, this court's dismissal of his action will be a miscarriage of justice.

Plaintiff's argument is not well founded. He has submitted no proof to undermine the finding of the magistrate judge that he was capable of financing his lawsuit. This court repeatedly has ordered the plaintiff to pay the required filing fees in order for him to proceed with his lawsuit. Plaintiff had until November of 2007 to appeal the magistrate judge's decision denying his Motion to Proceed *In Forma Pauperis*. He did not do so. Even though this court provided plaintiff a grace period, he still has not paid anything towards the required filing fees and has completely ignored this court's orders that he must do so before proceeding.

Accordingly, this court hereby dismisses the plaintiff's lawsuit. Plaintiff has shown an unwillingness to follow requisite court procedures and to follow the directions of the court.

SO ORDERED AND ADJUDGED, this the 25th day of May, 2010.

s/ HENRY T. WINGATE
CHIEF JUDGE
UNITED STATES DISTRICT COURT

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